Cite as 2014 Ark. App. 262

ARKANSAS COURT OF APPEALS

DIVISION II
No. CV-13-814

C.C., A MINOR APPELLANT V. STATE OF ARKANSAS APPELLEE	Opinion Delivered April 30, 2014 APPEAL FROM THE SALINE COUNTY CIRCUIT COURT [NO. J10-93] HONORABLE BOBBY MCCALLISTER, JUDGE AFFIRMED

RITA W. GRUBER, Judge

The Circuit Court of Saline County, Juvenile Division, adjudicated C.C. delinquent in August 2011 based on his "true" plea to committing third-degree battery. He was put on probation for two years and ordered to comply with the court's rules and conditions. The State filed a petition to revoke probation in April 2013, alleging that he had violated the condition requiring him to obey the reasonable and lawful commands of his parents, the court, and his probation officer; abide by a curfew; and refrain from using, possessing, or selling drugs or alcoholic beverages. Specifically, the State alleged that he had allowed an adult female "into his house without his mother's permission," the female had brought alcohol into the house, and he had drunk some of it.

At a revocation hearing on May 3, 2013, C.C. pleaded true to the petition's allegations, and his probation was revoked.[1] At a proceeding on June 3, 2013, the juvenile court committed him to the Arkansas Department of Human Services, Division of Youth Services (DYS), to be followed by one year of probation, aftercare, drug treatment, and individual and family therapy. The court orally stated "that we just had a discussion and drug court staffing with regard to C.C. and it was determined, although . . . [his attorney] strongly argued the other direction," that he was "not appropriate for drug court." C.C. now appeals, challenging the sufficiency of the evidence to support his revocation and contending that his commitment to DYS was unwarranted. We affirm.

In juvenile cases, the circuit court must find by a preponderance of the evidence that the juvenile violated the terms and conditions of probation. Ark. Code Ann. § 9-27-339(e) (Repl. 2009); *K.N. v. State*, 360 Ark. 579, 589, 203 S.W.3d 103, 108 (2005). The State need only show that the juvenile committed one violation in order to sustain a revocation. *M.L. v. State*, 2013 Ark. App. 130. On appeal, we will uphold the findings of the juvenile court unless they are clearly against the preponderance of the evidence. *Id.* Because the determination of a preponderance of the evidence turns on questions of credibility and weight to be given testimony, we defer to the trial court's superior position to gauge these matters. *Id.*

C.C. claims in his first point on appeal that the State presented no testimony to support its allegation that he failed to obey the reasonable and lawful commands of his parents, the

[1]C.C.'s probation was previously revoked in September 2011 and February 2013 on respective "true" findings that he had committed the offenses of aggravated assault and third-degree assault.

juvenile court, and his probation officer.[2] However, he does not challenge the State's evidence that he failed to obey the condition that he refrain from using alcohol, and we cannot say that the revocation was clearly against the preponderance of the evidence. *See Ingram v. State*, 2009 Ark. App. 729, at 7, 363 S.W.3d 6, 10 (observing that appellant admitted to more than one violation and that the trial court was not required to excuse her failure to comply with conditions of probation).

In his second point, C.C. argues that his one-year "sentence" to DYS was excessive. He contrasts the juvenile court's remarks at the conclusion of the revocation hearing with its remarks thirty days later. At the revocation hearing, the court stated that it would give C.C. a chance to do well, mentioned "the process of seeing if [he would] qualify for drug court," and expressed its desire that he go to a program called C-Step. The court announced, "Sentencing is continued . . . [at which point] we're going to decide whether you go into drug court or not."[3] At the subsequent hearing, the court informed C.C. that he was not appropriate for drug court per a staffing decision. The court then announced, "I am not going to send you to C-Step. You're going directly to DYS."

---

[2]An appellant is required to create an abstract of material parts of the transcript. Ark. Sup. Ct. R. 4-2(a)(5) (2013). Material parts of the transcript include information that is essential for the appellate court to understand the case and to decide the issues on appeal. *Id.* Here, the abstract incorrectly attributes parts of C.C.'s testimony to another juvenile who also testified; this deficiency, however, is not such that we are unable to reach the merits of the case. *See* Ark. Sup. Ct. R. 4-2(b)(3) (2013).

[3]We note that juveniles who are adjudicated delinquent are not "sentenced." Rather, they are subject to a disposition such as treatment, commitment, transfer of legal custody, and placement in community-based programs. *Golden v. State*, 341 Ark. 656, 21 S.W.3d 801 (2000); Ark. Code Ann. § 9-27-330 (Repl. 2009).

C.C. complains on appeal that the record fails to reflect findings regarding the DYS commitment, that the record is silent on what may have happened or not happened after the first hearing, and that no additional evidence or allegations would support a commitment to DYS. C.C. cites no authority to support his contention that this disposition was unwarranted. Furthermore, Arkansas Code Annotated section 9-27-330(a)(1)(B)(i) (Repl. 2009) specifically allows the juvenile court, upon finding the juvenile to be delinquent, to commit the juvenile to DYS. Finally, under Arkansas Code Annotated section 9-27-339(e) (Repl. 2009), which governs issues of probation revocation in juvenile court, the court was authorized to make any disposition that it could have made at the time probation was imposed. *See also K.N. v. State*, 360 Ark. 579, 203 S.W.3d 103 (2005). Because the court could have committed C.C. to DYS when it first adjudicated him delinquent, it also was authorized to commit him to DYS upon revoking his probation.

Affirmed.

PITTMAN and HARRISON, JJ., agree.

Dyer and Jones, by: *F. Parker Jones III*, for appellant.

Dustin McDaniel, Att'y Gen., by: *Kathryn Henry*, Ass't Att'y Gen., and *Lindsay Bridges*, Law Student Admitted to Practice Pursuant to Rule XV of the Rules Governing Admission to the Bar of the Supreme Court under supervision of *Darnisa Evans Johnson*, Deputy Att'y Gen., for appellee.